



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2022-0433; FRL-10402-01-R4]

Air Plan Approval; North Carolina; Minor Revisions to Nitrogen Oxides Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the North Carolina State Implementation Plan (SIP) submitted by the North Carolina Department of Environmental Quality (NCDEQ), Division of Air Quality, via a letter dated April 13, 2021, and received by EPA on April 14, 2021. This revision contains minor changes to North Carolina's nitrogen oxides (NO_x) rule. EPA is proposing to approve these changes pursuant to the Clean Air Act (CAA or Act).

DATES: Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2022-0433 at www.regulations.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy,

information about CBI or multimedia submissions, and general guidance on making effective comments, please visit www2.epa.gov/dockets/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT: Steven Scofield, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9034. Mr. Scofield can also be reached via electronic mail at scofield.steve@epa.gov.

SUPPLEMENTARY INFORMATION:

I. What Action is EPA Proposing to Take?

EPA is proposing to approve changes to North Carolina's SIP that were provided to EPA through NCDEQ via a letter dated April 13, 2021.¹ EPA is proposing to approve changes to North Carolina's 15A North Carolina Administrative Code (NCAC) Subchapter 02D, Section .1400, *Nitrogen Oxides* (hereinafter referred to as Section .1400).² The April 13, 2021, revision to the North Carolina SIP transmits changes that do not alter the meaning of the regulations, such as clarifying changes, updated cross-references, and several ministerial language changes.

II. EPA's Analysis of the State's Submittal

North Carolina's SIP revision contains minor changes to Section .1400.³ EPA has preliminarily determined that these changes do not interfere with attainment and maintenance of the national ambient air quality standards (NAAQS) or any other applicable requirement of the

¹ EPA notes that the submittal was received through the State Planning Electronic Collaboration System (SPeCS) on April 14, 2021. For clarity, this notice will refer to the submittal by the date on the cover letter, which is April 13, 2021.

² The State submitted several revisions with the same April 13, 2021, cover letter following readoption, including revisions to rules in Section .1400. These revisions were submitted pursuant to North Carolina's 10-year readoption process at North Carolina General Statute at 150B-21-3A. EPA will be considering action on other SIP revisions submitted with the April 13, 2021, cover letter in separate rulemakings.

³ EPA is not proposing to act on Rule .1405, *Circumvention*, as this rule is not part of the approved SIP, and North Carolina did not request that EPA act on this rule.

Act because they are minor in nature. For these reasons, EPA is proposing to approve the changes to this section. EPA's analysis of each rule change in Section .1400 included in the April 13, 2021, SIP revision is below.

a. Rule .1401, *Definitions*

Rule .1401 includes definitions that apply to Section .1400 rules. The April 13, 2021, SIP revision updates the formatting of rule references, makes minor clarifying changes, makes other formatting revisions and spelling/grammar corrections, adds definitions, and deletes one definition. Certain cross-references in Rule .1401 are changed to remove rules that North Carolina repealed (Rules .1416, .1417, and .1419 through .1422). These removed rules are also not in the SIP. Other revisions to Rule .1401 include:

1. A definition for "Combustion turbine" is added at .1401(a)(8). Stationary combustion turbines are regulated in Section 1400 under Rule .1408, and this definition provides clarity regarding that rule.
2. The definitions for "Emergency generator" at .1401(a)(11) and "Emergency use internal combustion engines" at .1401(a)(12) are each split into provisions (A) and (B) to make the definitions clearer. The revision also clarifies under (B) when the operation of emergency generators and emergency use internal combustion engines is allowed to perform maintenance to protect the environment. Currently, the SIP provision allows operation of such emergency generators and engines during maintenance when necessary to protect the environment. The revision specifies that operation for maintenance is only allowed when maintenance is performed on the power supply to equipment that is necessary to protect the environment and on such equipment itself.
3. The definition for "Process heater" at .1401(a)(20) is removed, as it is redundant with the definition for "Indirect-fired process heater" at .1401(a)(15). Additionally, "indirect-fired process heater" is the term used in the substantive requirements of Section .1400 at .1407.

4. New provision .1401(b) is added to provide that whenever reference is made to the Code of Federal Regulations in Section .1400, the definitions in the Code of Federal Regulations shall apply unless specifically stated otherwise in a particular rule in this Section.

EPA is proposing to approve the April 13, 2021, SIP revision with respect to Rule .1401 because, as minor changes, they will not impact air quality and thus will not interfere with any requirement concerning attainment and reasonable progress, or any other applicable CAA requirement.⁴

b. Rule .1402, *Applicability*

Rule .1402 outlines the applicability provisions that apply to Section .1400 rules. The April 13, 2021, SIP revision does not include any substantive changes to Rule .1402. The revision makes minor administrative changes, makes minor rewording for clarity, removes outdated language referencing repealed rules, replaces words with acronyms for consistency, updates rule cross references, and updates the formatting of rule references. The cross-references in Rule .1402 are being changed to remove rules that North Carolina repealed (Rules .1416, .1417, and .1419 through .1422). A sentence in paragraph (a) was removed due to a reference to the Section .2400 rules related to the Clean Air Interstate Rule (CAIR), which North Carolina repealed. These removed rules are also not in the SIP.

EPA is proposing to approve the April 13, 2021, SIP revision with respect to Rule .1402 because, as minor, non-substantive changes, they will not impact air quality and thus will not interfere with any requirement concerning attainment and reasonable progress, or any other applicable CAA requirements.

c. Rule .1403, *Compliance Schedules*

⁴ Section 110(l) of the CAA prohibits EPA from approving a SIP revision that would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the Act.

Rule .1403 outlines compliance schedule provisions that apply to Section .1400 rules. The April 13, 2021, SIP revision does not include any substantive changes to Rule .1403. The revision updates the formatting of rule references, corrects an error in a rule reference in Subparagraph (b), and makes other general formatting and minor administrative and clarifying changes.

EPA is proposing to approve the April 13, 2021, SIP revision with respect to Rule .1403 because, as minor, non-substantive changes, they will not impact air quality and thus will not interfere with any requirement concerning attainment and reasonable progress, or any other applicable CAA requirements.

d. Rule .1404, *Recordkeeping: Reporting: Monitoring*

Rule .1404 outlines recordkeeping, reporting, and monitoring provisions that apply to Section .1400 rules. Subparagraph (e)(2)(B) addresses “missing data” for continuous emissions monitoring systems and has been restructured to move the definition of “properly operated” to the end of the subparagraph. Additionally, the provision is strengthened by specifying that “properly operated” means that “operating and maintenance procedures being used complied with permit conditions, operating and maintenance procedures, preventative maintenance procedures, monitoring results, and compliance history,” rather than only listing those specific procedures as examples of acceptable operating and maintenance procedures. Otherwise, the April 13, 2021, SIP revision does not include any substantive changes to Rule .1404 but includes updates to the formatting of rule references and minor administrative changes.

EPA is proposing to approve the April 13, 2021, SIP revision with respect to Rule .1404 because, as minor changes, they will not impact air quality and thus will not interfere with any requirement concerning attainment and reasonable progress, or any other applicable CAA requirements.

e. Rule .1407, *Boilers and Indirect-Fired Process Heaters*

Rule .1407 outlines provisions for boilers and indirect-fired process heaters. The April 13, 2021, SIP revision does not include any substantive changes to Rule .1407. The revision updates the formatting of rule references and abbreviations, and makes minor clarifications.

EPA is proposing to approve the April 13, 2021, SIP revision with respect to Rule .1407 because, as minor, non-substantive changes, they will not impact air quality and thus will not interfere with any requirement concerning attainment and reasonable progress, or any other applicable CAA requirements.

f. Rule .1408, *Stationary Combustion Turbines*

Rule .1408 outlines provisions for stationary combustion turbines. The April 13, 2021, SIP revision does not include any substantive changes to Rule .1408. The revision updates the formatting of rule references and abbreviations, and makes minor clarifications.

EPA is proposing to approve the April 13, 2021, SIP revision with respect to Rule .1408 because, as minor, non-substantive changes, they will not impact air quality and thus will not interfere with any requirement concerning attainment and reasonable progress, or any other applicable CAA requirements.

g. Rule .1409, *Stationary Internal Combustion Engines*

Rule .1409 outlines provisions for stationary internal combustion engines. The April 13, 2021, SIP revision does not include any substantive changes to Rule .1409. The revision corrects a cross-reference in Subparagraph (c), updates the formatting of rule references, updates abbreviations, adds “or she” to language referencing the Director, and makes minor administrative changes.

EPA is proposing to approve the April 13, 2021, SIP revision with respect to Rule .1409 because, as minor, non-substantive changes, they will not impact air quality and thus will not interfere with any requirement concerning attainment and reasonable progress, or any other applicable CAA requirements.

h. Rule .1410, *Emissions Averaging*

Rule .1410 outlines emissions averaging provisions that apply to Section .1400 rules. The April 13, 2021, SIP revision does not include any substantive changes to Rule .1410. The revision updates the formatting of rule references, updates abbreviations, and makes minor administrative changes.

EPA is proposing to approve the April 13, 2021, SIP revision with respect to Rule .1410 because, as minor, non-substantive changes, they will not impact air quality and thus will not interfere with any requirement concerning attainment and reasonable progress, or any other applicable CAA requirements.

i. Rule .1411, *Seasonal Fuel Switching*

Rule .1411 outlines provisions for seasonal fuel switching that apply to Section .1400 rules. The April 13, 2021, SIP revision does not include any substantive changes to Rule .1411. The revision updates the formatting of rule references, updates abbreviations, and makes minor clarifying and administrative changes.

EPA is proposing to approve the April 13, 2021, SIP revision with respect to Rule .1411 because, as minor, non-substantive changes, they will not impact air quality and thus will not interfere with any requirement concerning attainment and reasonable progress, or any other applicable CAA requirements.

j. Rule .1412, *Petition for Alternative Limitations*

Rule .1412 outlines provisions to petition for alternative limitations. The April 13, 2021, SIP revision does not include any substantive changes to Rule .1412. The revision restructures Subparagraph (a), updates the formatting of rule references, adds “or she” to language referencing the Director, updates abbreviations, and makes minor administrative changes.

EPA is proposing to approve the April 13, 2021, SIP revision with respect to Rule .1412 because, as minor, non-substantive changes, they will not impact air quality and thus will not interfere with any requirement concerning attainment and reasonable progress, or any other applicable CAA requirements.

k. Rule .1413, *Sources Not Otherwise Listed in this Section*

Rule .1413 outlines provisions for sources not otherwise listed in Section .1400 rules. The April 13, 2021, SIP revision does not include any substantive changes to Rule .1413. The revision updates the formatting of rule references, adds “or she” to language referencing the Director, updates abbreviations, and makes minor administrative changes.

EPA is proposing to approve the April 13, 2021, SIP revision with respect to Rule .1413 because, as minor, non-substantive changes, they will not impact air quality and thus will not interfere with any requirement concerning attainment and reasonable progress, or any other applicable CAA requirements.

l. Rule .1414, *Tune-Up Requirements*

Rule .1414 outlines tune-up requirement provisions that apply to boilers, indirect-fired process heaters, and stationary internal combustion engines subject to Rule .1407 or .1409. The April 13, 2021, SIP revision does not include any substantive changes to Rule .1414. The revision updates the formatting of rule references, updates abbreviations, and makes minor clarifying and administrative changes.

EPA is proposing to approve the April 13, 2021, SIP revision with respect to Rule .1414 because, as minor, non-substantive changes, they will not impact air quality and thus will not interfere with any requirement concerning attainment and reasonable progress, or any other applicable CAA requirements.

m. Rule .1415, *Test Methods and Procedures*

Rule .1415 outlines provisions for test methods and procedures that apply to Section .1400 rules. The April 13, 2021, SIP revision does not include any substantive changes to Rule .1415. The revision updates the formatting of rule references.

EPA is proposing to approve the April 13, 2021, SIP revision with respect to Rule .1415 because, as minor, non-substantive changes, they will not impact air quality and thus will not

interfere with any requirement concerning attainment and reasonable progress, or any other applicable CAA requirements.

n. Rule .1418, *New Electric Generating Units, Boilers, Combustion Turbines, And I/C Engines*

Rule .1418 outlines provisions for new electric generating units, boilers, combustion turbines, and internal combustion engines. The April 13, 2021, SIP revision does not include any substantive changes to Rule .1418. The revision updates the formatting of rule references, updates abbreviations, corrects errors in the rules title, restructures the provisions, and makes minor administrative changes.

EPA is proposing to approve the April 13, 2021, SIP revision with respect to Rule .1418 because, as minor, non-substantive changes, they will not impact air quality and thus will not interfere with any requirement concerning attainment and reasonable progress, or any other applicable CAA requirements.

o. Rule .1423, *Large Internal Combustion Engines*

Rule .1423 outlines provisions for large internal combustion engines. The April 13, 2021, SIP revision does not include any substantive changes to Rule .1423. The revision updates the formatting of rule references, updates abbreviations, and makes minor clarifying and administrative changes.

EPA is proposing to approve the April 13, 2021, SIP revision with respect to Rule .1423 because, as minor, non-substantive changes, they will not impact air quality and thus will not interfere with any requirement concerning attainment and reasonable progress, or any other applicable CAA requirements.

III. Incorporation by Reference

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference 15A NCAC Subchapter 02D .1401, *Definitions*; .1402,

Applicability; .1403, Compliance Schedules; .1404 Recordkeeping: Reporting: Monitoring; .1407, Boilers and Indirect-Fired Process Heaters; .1408, Stationary Combustion Turbines; .1409, Stationary Internal Combustion Engines; .1410, Emissions Averaging; .1411, Seasonal Fuel Switching; .1412, Petition for Alternative Limitations; .1413, Sources Not Otherwise Listed in this Section; .1414, Tune-Up Requirements; .1415, Test Methods and Procedures; .1418, New Electric Generating Units, Boilers, Combustion Turbines, And I/C Engines; and .1423, Large Internal Combustion Engines as described in sections I and II of this preamble. These regulations were state-effective on October 1, 2020. EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information).

IV. Proposed Action

EPA is proposing to approve the April 13, 2021, SIP revision to incorporate various changes to North Carolina’s NO_x provisions into the SIP. Specifically, EPA is proposing to approve various minor changes to North Carolina’s rules in 02D Section .1400, *Nitrogen Oxides* as explained herein. EPA is proposing to approve these changes for the reasons discussed above.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided they meet the criteria of the CAA. This proposed action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: November 15, 2022

Daniel Blackman,
Regional Administrator,
Region 4.

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